

**HOUSE BILL NO. 717: BILL TO RATIFY WATER RIGHTS  
COMPACT BETWEEN STATE OF MONTANA and  
UNITED STATES FISH AND WILDLIFE SERVICE for the  
BOWDOIN NATIONAL WILDLIFE REFUGE**

SENATE FISH AND GAME

EXHIBIT NO. 3

DATE 3-15-07

BILL NO. HB 717

Testimony of Carmen Luna, Refuge Manager,  
Bowdoin National Wildlife Refuge

March 15, 2007

Mr. Chairman and Members of the Committee:

Among the most important responsibilities of the U.S. Fish and Wildlife Service is the management of the National Wildlife Refuge System, a national network of lands and waters established for the conservation and management of fish, wildlife and plant resources for the benefit of present and future generations. The Service manages seven major refuges in Montana, as well as several small, unstaffed refuges, and numerous Waterfowl Production Areas (smaller management units). This water rights compact is the third agreement to settle federal reserved water rights for refuges in Montana. The Service is also participating in the water court adjudication process for those refuges with state-based water rights, such as Lee Metcalf Refuge on the Bitterroot River and Medicine Lake Refuge in northeastern Montana.

Bowdoin NWR was reserved from the public domain in 1936 to preserve habitat for the propagation and protection of migratory waterfowl. It's true value exists in the "big picture" of how it fits into the Prairie Pothole Region, its role in the waterfowl and shorebird migration corridor, its importance as a breeding and feeding area for migratory birds, its role as part of a national system of wildlife refuges, and its socio- economic values.

The Prairie Pothole Region extends from South Dakota north to Manitoba, Saskatchewan and Alberta, and from western Minnesota and Iowa westward along the Hi-line of

Montana. Over half of the wetlands in the U.S. have been lost to drainage and/or to the cultivation of native prairie areas. Over 260 species of birds of the 800 migratory bird species in North America rely on Bowdoin NWR for breeding and nesting during the spring and summer, and feeding and resting during spring and fall migrations.

Wetlands also provide habitat for many rare, threatened and endangered plant and animal species such as piping plovers and bald eagles. Non-game birds, mammals, reptiles, and amphibians are sustained by prairie pothole wetlands as well.

Bowdoin's significance as vitally important migratory bird habitat is recognized by The Western Hemisphere Shorebird Reserve Network (WHSRN), an organization which monitors and protects key shorebird areas throughout the hemisphere. To be selected as this kind of site, an area must host a minimum of 20,000 shorebirds during migration. In addition, in March of 2001 Bowdoin NWR was recognized and designated a globally important bird area by the American Bird Conservancy, acting in association with The Nature Conservancy.

Bowdoin NWR also generates economic value. The Refuge provides the local area with income through a variety of recreational opportunities, both consumptive (e.g. waterfowl and pheasant hunting) and non-consumptive (e.g. bird watching, public education, wildlife photography, and hiking). Although eco-tourists come specifically to visit the Refuge, they also have a beneficial economic impact on the local economy, through their expenditures for fuel, motels, food and beverages, shopping, etc. A further economic benefit is found in the local economic spillover from Bowdoin's annual operating budget.

Employee salaries and non-salary refuge expenditures (maintenance and operations) also greatly benefit the local community, county, and state in the form of income, jobs, taxes, and personal spending.

The Service approached the Compact Commission to negotiate a settlement of its water rights for Bowdoin because we believe that the natural conditions provide flexibility for resolving water management issues. This negotiated settlement has allowed us to work closely with the State's professional staff, as well as many concerned members of Bowdoin's community. This negotiated agreement essentially protects the status quo. The compact subordinates the Refuge's water rights to valid existing water rights upstream, with the understanding that the basin will remain closed as a result of the Ft. Belknap Compact to future large developments; however, the basin closure exempts small wells, springs and ponds for domestic and stock uses which would have relatively insignificant impacts on the Refuge's water supply.

FWS has been in negotiations with the Commission since 1995 over its reserved water rights claims for refuges and concluded Compacts for Benton Lake and Black Coulee NWR in 1997 and Red Rock Lakes NWR in 1999. To date, FWS Compacts preserve current water allocations by subordinating to valid, existing water uses in return for closing the basins to additional water development. This Basin, Beaver Creek (40 M) is already closed by the Ft. Belknap Compact. The FWS Compacts explicitly acknowledged that the Refuges' water rights are junior to those of Indian Tribes.

The State of Montana, through the Compact Commission, supports the negotiation process as the best way to protect its water users. Previous compacts have been passed by large majorities in the Montana legislature and approved by the governor. In addition to this Compact, Charles M. Russell and UL Bend NWRs and the National Bison Range contain significant amounts of lands reserved from the public domain. The Service has asserted federal reserved water rights for these lands. Other refuges, hatcheries and Waterfowl Production Areas in Montana contain only acquired lands and no reserved rights have been claimed.

John Chaffin and Rich Aldrich, from the Office of the Billings Field Solicitor of the Department of Interior, and Dave Gehlert, an attorney with the Department of Justice, are members of our Federal negotiating team. We are all working in our respective agencies to gain support for the compact. At this time, we do not foresee any problems in gaining Federal approval.

The Service believes that favorable action on this bill by the legislature will benefit the Refuge, water users and the State. I want to express my personal appreciation to the Compact Commission members and staff, and especially to the water users in the Milk River Basin, for the commitment and hard work it took to reach this agreement. And I would like to reiterate the Fish and Wildlife Service's intent to continue negotiations to settle this compact by working out the MOU with the State and the remaining federal reserved water rights for Refuges in Montana.

Thank you for the opportunity to provide these comments.

Carmen Luna  
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